

LEGISLATIVE BILL 152

Approved by the Governor May 25, 2001

Introduced by Jensen, 20; Byars, 30

AN ACT relating to health and human services; to amend section 81-672, Reissue Revised Statutes of Nebraska, sections 81-657 and 81-658, Revised Statutes Supplement, 2000, and section 81-664, Reissue Revised Statutes of Nebraska, as amended by section 34, Legislative Bill 209, Ninety-seventh Legislature, First Session, 2001; to change brain injury registry provisions; to change registry information provisions; to adopt the Parkinson's Disease Registry Act; to provide penalties; to provide for and eliminate termination dates; to harmonize provisions; to repeal the original sections; to outright repeal section 81-662, Reissue Revised Statutes of Nebraska; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-657, Revised Statutes Supplement, 2000, is amended to read:

81-657. (1) If a person with brain or head injury is not admitted to a hospital within the state but is treated in this state in the office of a physician or psychologist licensed under the Uniform Licensing Law, the treating physician or psychologist shall report the brain or head injury to the department within thirty days after identification of the person sustaining such injury. Each treating physician or psychologist shall be required to report each brain or head injury only one time.

(2) Each hospital within the state shall report a brain or head injury which results in inpatient admission or outpatient treatment to the department within thirty days after discharge of the person sustaining such injury.

(3) The report shall contain the following information about the person sustaining the injury:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Gender;
- (e) Race or ethnicity;
- (f) Residence;
- (g) Date of the injury;

(h) Final diagnosis or classification of the injury according to the International Classification of Disease, Clinical Modification Coding System, as adopted by the department;

(i) Cause of the injury and, if known, whether the injury resulted from an accident involving the use of alcohol;

(j) Place or site of occurrence of the injury;

(k) Identification of the reporting source;

~~(l)~~ (l) Dispensation upon discharge;

~~(m)~~ (m) Payor source; and

~~(n)~~ (n) Any additional information the department can demonstrate is reasonable in order to implement the purposes stated in section 81-653.

Sec. 2. Section 81-658, Revised Statutes Supplement, 2000, is amended to read:

81-658. (1) Inpatient, post-acute-care facilities, including nursing homes and rehabilitation centers, shall report the treatment of persons with brain or head injury to the department biannually. The report for the months of January through June shall be due on the following August 1, and the report for the months of July through December shall be due on February 1 of the following year.

(2) The reports shall contain the following information about the person sustaining the injury:

- (a) Name;
- (b) Social security number;
- (c) Date of birth;
- (d) Gender;
- (e) Race or ethnicity;
- (f) Preadmission residence;
- (g) Admitting diagnosis;

(h) Cause of the injury and, if known, whether the injury resulted from an accident involving the use of alcohol;

(i) Place or site of occurrence of the injury;
 (j) Length of stay at the facility, including dates of admission and discharge;
~~(j)~~ (k) Dispensation upon discharge;
~~(k)~~ (l) Identification of reporting source;
~~(l)~~ (m) Payor source; and
~~(m)~~ (n) Any additional information the department can demonstrate is reasonable in order to implement the purposes stated in section 81-653.

Sec. 3. Section 81-664, Reissue Revised Statutes of Nebraska, as amended by section 34, Legislative Bill 209, Ninety-seventh Legislature, First Session, 2001, is amended to read:

81-664. For purposes of sections 81-663 to 81-675:

(1) Aggregate data means data contained in the medical record and health information registries maintained by the department which is compiled in a statistical format and which does not include patient-identifying data;

(2) Approved researcher means an individual or entity which is approved by the department pursuant to section 81-666 to obtain access to data contained in the medical record and health information registries maintained by the department to assist in the scientific or medical research for the prevention, cure, or control of a disease or injury process;

(3) Case-specific data means data contained in the medical record and health information registries concerning a specific individual other than patient-identifying data;

(4) Department means the Department of Health and Human Services Regulation and Licensure;

(5) Medical record and health information registry means the system of reporting certain medical conditions occurring in this state, as prescribed by law, which are reported and recorded in order to achieve the goals of prevention, cure, and control through research and education, and includes the birth defects registry established in section 71-646, the cancer registry established in sections 81-642 to 81-650, and the brain injury registry established in sections 81-653 to 81-661, and the Parkinson's Disease Registry established in the Parkinson's Disease Registry Act;

(6) Patient-identifying data means the patient's name, address, record number, symbol, or other identifying particular assigned to or related to an individual patient; and

(7) Research means study specific to the diseases or injuries for which access to data is requested and which is dedicated to the prevention, cure, or control of the diseases or injuries.

Sec. 4. Section 81-672, Reissue Revised Statutes of Nebraska, is amended to read:

81-672. Any person who receives or releases information in the form and manner prescribed by sections 81-663 to 81-675 and the rules and regulations adopted and promulgated pursuant to such sections shall not be civilly or criminally liable for such receipt or release unless the receipt or release is done with actual malice, fraudulent intent, or bad faith. In an action brought against a person for wrongful receipt or release of medical record and health information registry information, the party bringing the action shall plead specifically the allegation that the immunity provided in this section does not apply because the person receiving or releasing the information did so with actual malice, fraudulent intent, or bad faith.

Sec. 5. Sections 5 to 18 of this act shall be known and may be cited as the Parkinson's Disease Registry Act.

Sec. 6. The purpose of the Parkinson's Disease Registry is to provide a central data bank of accurate, historical and current information for research purposes. The Parkinson's Disease Registry Act will provide for screening and collecting patient and family data that may be useful in detecting the incidence of and possible risk factors concerning Parkinson's disease and related movement disorders. The act will also aid in planning for health care requirements and education needs.

Sec. 7. For purposes of the Parkinson's Disease Registry Act:

(1) Approved researcher means an individual or entity who is approved by the department in accordance with section 81-666 to obtain access to data contained in the Parkinson's Disease Registry to assist in scientific or medical research for the prevention, cure, or control of Parkinson's disease;

(2) Department means the Department of Health and Human Services Regulation and Licensure;

(3) Parkinson's disease means a chronic, progressive disorder in which there is a lack of the chemical dopamine in the brain as a direct result of the destruction of the dopamine-producing cells in the portion of the brain called the substantia nigra. Clinical features of the disease include tremor

at rest, slow movements, rigidity, and unsteady or shuffling gait and may be indicated by improvement after using medications used for Parkinson's disease; and

(4) Related movement disorder means a disorder that resembles Parkinson's disease in some way, such as another kind of tremor.

Sec. 8. The department shall establish and maintain the Parkinson's Disease Registry. The registry shall consist of a compilation of the reports of cases of Parkinson's disease and related movement disorders occurring among residents of this state which are with the department. The registry shall include information the department deems necessary and appropriate for the statistical identification and planning for treatment and education of health care providers and persons diagnosed with Parkinson's disease and related movement disorders.

Sec. 9. The department shall:

(1) Adopt and promulgate rules and regulations, including a uniform system of classification of Parkinson's disease which is consistent with medically and clinically accepted standards and definitions for use in reporting by medical personnel treating the disease;

(2) Execute any contracts that the department deems necessary to carry out the Parkinson's Disease Registry Act;

(3) Receive and record the data obtained from reports filed under sections 10 and 11 of this act;

(4) Compile and publish a statistical report annually or at reasonable intervals containing information obtained from patient data to provide accessible information useful to medical personnel, approved researchers, and the public; and

(5) Comply with all necessary requirements to obtain funds or grants.

Sec. 10. (1) If a resident of this state is diagnosed with Parkinson's disease or a related movement disorder within this state in the office of a physician licensed under the Uniform Licensing Law, the physician shall file a report of the diagnosis and pertinent information with the department within sixty days after the diagnosis.

(2) An individual resident of this state who has been diagnosed with Parkinson's disease or a related movement disorder by a licensed physician may file a report with the department providing relevant information. The department shall provide for validation of individual reports.

(3) A report filed under this section shall contain the following information about the person diagnosed with Parkinson's disease or a related movement disorder:

(a) Name;

(b) Social security number;

(c) Date of birth;

(d) Gender;

(e) Address at time of diagnosis;

(f) Current address;

(g) Date of diagnosis;

(h) Physician;

(i) Identification of reporting source; and

(j) Any additional information the department demonstrates is reasonable to implement the Parkinson's Disease Registry Act.

Sec. 11. The pharmacist in charge of each pharmacy located within the state or doing business in the state shall file a semiannual report with the department listing persons to whom the pharmacist has dispensed drugs on the list of drugs required to be reported under this section for Parkinson's disease. The report shall include the name, address, and social security number of the person for whom the drugs were prescribed and the name and address of the prescribing physician. The department shall issue a list of drugs used for the treatment of Parkinson's disease to be reported under this section, shall review and revise the list annually, and shall distribute the list to each pharmacy located within the state or doing business in the state.

Sec. 12. All data and information developed or collected pursuant to the Parkinson's Disease Registry Act and the receipt and release of data from the Parkinson's Disease Registry is subject to and shall comply with sections 81-663 to 81-675. For purposes of the Parkinson's Disease Registry, data may be released as Class I data, Class II data, Class III data, or Class IV data as classified in section 81-667.

Sec. 13. Nothing in the Parkinson's Disease Registry Act shall be deemed to compel any individual to submit to any medical examination or supervision by the department, any of its authorized representatives, or an approved researcher. No person who seeks information or obtains data pursuant to the act shall contact a patient or such patient's family without first

obtaining the permission of a physician actively involved in the care of such patient.

Sec. 14. Nothing in the Parkinson's Disease Registry Act requires a physician or pharmacist to deny medical treatment or services to an individual who refuses to provide the information necessary to make complete reports required under section 10 or 11 of this act.

Sec. 15. (1) Any physician or pharmacist required to make reports under section 10 or 11 of this act is immune from liability, civil, criminal, or otherwise, for filing an incomplete report as a result of the failure of an individual to provide the information necessary to make such report.

(2) Any physician or pharmacist who fails to file reports as required under section 10 or 11 of this act shall be guilty of a Class V misdemeanor for each offense.

Sec. 16. The initial reports required under section 11 of this act shall be made within thirty days after January 1 of the year following issuance by the department of the list of drugs to be reported under section 11 of this act.

Sec. 17. (1) On and after the effective date of this act, for purposes of the Parkinson's Disease Registry Act:

(a) Any rules, regulations, and orders of the Department of Health and Human Services Regulation and Licensure adopted pursuant to the former Parkinson's Disease Registry Act, as such act existed prior to February 14, 2001, and in effect on February 13, 2001, shall be revived and continue in effect until revised, amended, repealed, or nullified pursuant to law;

(b) Any contracts entered into by the department prior to February 14, 2001, and in effect on February 13, 2001, in connection with the duties and functions of the former act are recognized and may be revived upon the agreement of all contract parties. If revived, the department shall succeed to all rights and obligations under such contracts;

(c) Any cash funds, custodial funds, gifts, trusts, grants, and appropriations of funds which were available for use by the department for purposes of the former act shall continue to be available for use by the department if such funds continue to exist; and

(d) Any documents created, information compiled, or property used by the department under the former act shall continue to be available to and may be used by the department.

(2) For purposes of this section, former act means the Parkinson's Disease Registry Act, as such act existed prior to February 14, 2001, which act was outright repealed in LB 209, Ninety-seventh Legislature, First Session, 2001.

Sec. 18. The Parkinson's Disease Registry Act terminates on June 30, 2003, or if no requests are received for two years from approved researchers to obtain access to data contained in the Parkinson's Disease Registry, the act terminates two years after the date of the last request, whichever occurs sooner, unless reenacted or reestablished by the Legislature.

Sec. 19. Original section 81-672, Reissue Revised Statutes of Nebraska, sections 81-657 and 81-658, Revised Statutes Supplement, 2000, and section 81-664, Reissue Revised Statutes of Nebraska, as amended by section 34, Legislative Bill 209, Ninety-seventh Legislature, First Session, 2001, are repealed.

Sec. 20. The following section is outright repealed: Section 81-662, Reissue Revised Statutes of Nebraska.

Sec. 21. Since an emergency exists, this act takes effect when passed and approved according to law.